

R E M A R K S

Reconsideration of this application, as amended, is courteously solicited.

The period for response to the Office Action of March 21, 2003 has been extended by three months to and including September 21, 2003 by the Petition For Extension Of Time attached hereto and made a part hereof. Favorable action with respect thereto is courteously solicited.

Additionally, the applicant respectfully requests that the due date be extended to and including September 22, 2003 under 37 C.F.R. § 1.7 since the due date fell on a Sunday.

Also attached hereto and made a part hereof are the Declaration Under 37 C.F.R. § 1.132 of Don N. Richey, Sr. marked "Exhibit C"; the Declaration Under 37 C.F.R. § 1.132 of Edward J. Pollock marked "Exhibit D"; and the Declaration Under 37 C.F.R. § 1.132 of Roy L. Hardison designated "Exhibit E." In addition, an aerial photograph of Ag Formulators, Inc. is attached hereto as "Exhibit F." Previously submitted in this case are two Declarations Under 37 C.F.R. § 1.132 of the inventor Donald D. Holbrook identified respectively as "Exhibit A" and "Exhibit B." Favorable consideration of the Declarations of Exhibits A, B, C, D, E and F is respectfully requested.

THE OFFICE ACTION OF MARCH 21, 2003

Claims 3, 4, 7 through 10 and 13 through 15 were rejected in the Office Action of March 21, 2003 only on the basis of the Richey et al. reference. Since, as believed again to be established herein, the Richey et al. reference is not in any respect prior art to the subject patent application, or otherwise relevant in this case, it is believed that these claims; that is, claims 3, 4, 7 through 10 and 13 through 15, are clearly allowable.

Only claims 1, 2 and 6 were rejected in the subject Office Action on the basis of other references (the patents to Wickramanayake and Hagen et al.) Claims 1, 2 and 6 have been cancelled hereby without prejudice to the claims remaining in the case.

More specifically, the Office Action of March 21, 2003 rejected claims 1 through 4, 6 through 11 and 13 through 15 under 35 U.S.C. 102(a) "*as being anticipated by Richey et al. entitled 'Improved Ozone Quenching With Calcium Thiosulfate.'*" The Office Action goes on to state that "*Richey et al. teach a method for treating water comprising disinfecting the water with ozone in a treatment system, wherein the system includes an ozone quenching system.*" Claims 1, 2, 5, 6 and 12 have been cancelled hereby without prejudice to the claims remaining in the case. The discussion with respect to claims 3, 4, 7 through 10 and 13 through 15 will be reserved for later in this amendment.

The Office Action rejected only claims 1, 2 and 6 under 35 U.S.C. 102(b) as being anticipated by references other than Richey et al. As to the Wickramanayake patent, the subject Office Action holds that claims 1, 2 and 6 are "*clearly anticipated by Wickramanayake (column 4, lines 47-52; column 9, lines 56-59). Wickramanayake teaches a method for treatment of soils contaminated with organic pollutants. In this method of Wickramanayake, the work material is*

a gas mixture that has passed through soil; the target constituent is ozone; the treating agent is sodium thiosulfate; and the objective is to quench the ozone.” It is readily apparent that the Wickramanayake patent neither discloses nor suggests the applicant’s invention as defined by the pending claims. It discloses only a method for treating soil through which a gas-ozone mixture is passed with sodium thiosulfate – not calcium thiosulfate as in the applicant’s invention. In other words, the gas-ozone mixture is used to treat the soil to remove contaminated organic compounds. The applicant’s invention is entirely different and for a different purpose. This will hereinafter be discussed in greater detail.

Claims 1, 2 and 6 were rejected in the subject Office Action under 35 U.S.C. 102(b) *“as being clearly anticipated by Hagen et al. (abstract; column 18, lines 47-61). In this method of Hagen et al., the work material is a fluid; the target constituent is an oxidant such as ozone; the treating agent is oxidant scavenger particulates which may be sodium thiosulfate particulates; and the objective is to remove the oxidant.”* Hagen et al. does not use or suggest using calcium thiosulfate as in the applicant’s invention. Again, the subject Hagen et al. reference does not disclose nor suggest the applicant’s invention. This will also be further discussed subsequently in greater detail.

Only claim 11 was rejected in the subject Office Action under 35 U.S.C. 103(a) *“as being unpatentable over Richey et al. Richey et al. disclose the method described above. The claim differs from Richey et al. by reciting a specific rate of calcium thiosulfate application to the water. It is submitted that one of ordinary skill in the art, when practicing the method of Richey et al., would have been expected to arrive at the optimum rate of calcium thiosulfate application by routine experimentation. In fact, Richey et al. disclose that the ozone quenching agent dose is a function of the ozone concentration in the water, and should be adjusted to reduce the dissolved ozone concentration without adding so much of the agent that the*

unoxidized agent would react with chlorine added downstream. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have applied calcium thiosulfate to the water in the amount recited in instant claim 11, depending on the concentration of dissolved ozone in the water being treated, absent a sufficient showing of unexpected results.” As heretofore and hereinafter discussed, the Richey et al. reference is believed clearly not to be prior art relative to the instant patent application, or to be otherwise relevant to any issue in this case. Certainly, without Richey et al., one could not find the subject invention to be obvious to one of ordinary skill in the art at the time the subject invention was made. Richey et al. was not presented in any form prior to October 3, 2000. Therefore, it is believed claim 11 is allowable. The allowance thereof is respectfully requested.

DECLARATION UNDER 37 C.F.R. § 1.132
OF DONALD D. HOLBROOK OF EXHIBITS A AND B

Two declarations by the inventor, Donald D. Holbrook were submitted marked “Exhibit A” and “Exhibit B” in the parent patent application and have thoroughly been discussed therein.

The Declarations Under 37 C.F.R. § 1.132 of Donald D. Holbrook identified herein as “Exhibit A” and “Exhibit B” respectively were thoroughly discussed in the parent patent application. As the declaration of “Exhibit B” states, he is the sole inventor of the invention in this patent application. Mr. Holbrook states in detail why the “Richey et al.” is not prior art in this case.

DECLARATION UNDER 37 C.F.R. § 1.132
OF DON N. RICHEY, SR. OF EXHIBIT C

Attached hereto and made a part hereof as “EXHIBIT C” is the Declaration Under 37 C.F.R. § 1.132 of Don N. Richey, Sr. Don N. Richey, Sr. is one of the persons labeled as an author of the Richey et al. reference cited in this case. Mr. Richey’s declaration fully supports Mr. Hobbrook’s declarations in every respect.

DECLARATION UNDER 37 C.F.R. § 1.132
OF EDWARD J. POLLOCK OF EXHIBIT D

Attached hereto and made a part hereof as “EXHIBIT D” is the Declaration Under 37 C.F.R. § 1.132 of Edward J. Pollock. Mr. Pollock is one of the authors of the Richey et al. reference cited in this case. His declaration fully supports the declarations of Mr. Holbrook and Mr. Richey.

DECLARATION UNDER 37 C.F.R. § 1.132
OF ROY L. HARDISON OF EXHIBIT E

Attached hereto and made a part hereof as “EXHIBIT E” is the Declaration Under 37 C.F.R. § 1.132 of Roy L. Hardison. Mr. Hardison’s declaration also supports in every respect the declarations of Mr. Holbrook, Mr. Richey and Mr. Pollock.

THE PHOTOGRAPH OF EXHIBIT F

Exhibit F is an aerial view of the plant of Ag Formulators, Inc., the assignee of rights herein, at which the calcium thiosulfate is manufactured.

DISTINCTIONS IN CLAIMED INVENTION OVER CITED PRIOR ART

Those claims rejected in the Office Action of March 21, 2003 were rejected solely on the basis of the Richey et al. article entitled “Improved Ozone Quenching With Calcium Thiosulfate;” the Wickramanayake United States Patent No. 5,269,943; the Hagen et al. United States Patent No. 5,700,375; and, in the case of claim 11, ordinary skill in the art. The claims, as amended, are believed clearly allowable thereover for the reasons herein set forth.

First, the Richey et al. reference is not in any respect prior art relative to the subject patent application, or relevant for any other purpose in this case, as heretofore established.

Second, the Wickramanayake United States Patent No. 5,269,943 is cited solely in the rejection of claims 1, 2 and 6 on the basis of the subject matter in column 4, lines 47-52 and column 9, lines 56-59. More specifically, the Office Action states that “Wickramanayake teaches a method for treatment of soils contaminated with organic pollutants. In this method of Wickramanayake, the work material is a gas mixture that has passed through soil; the target constituent is ozone; the treating agent is sodium thiosulfate; and the objective is to quench the ozone.” [Emphasis added] In contrast, in the applicant’s invention, as disclosed and claimed, the work material is a fluid, or water, the target constituent is ozone and the treating substance is calcium thiosulfate (in the preferred embodiment.) In the more narrow pending claims, the calcium thiosulfate is applied to the water before it passes from a water treatment system substantially without the release of undesirable by-products and the ozone in the water is substantially rendered harmless. This is entirely dissimilar from Wickramanayake. In fact, Wickramanayake can most fairly be identified as teaching the application of ozone to

contaminated soil to decompose organic compounds in the soil. Accordingly, the pending claims are believed clearly to be allowable over the Wickramanayake reference.

Third, the Hagen et al. United States Patent No. 5,700,375 is cited solely in rejecting claims 1, 2 and 6 on the basis of subject matter in the abstract and column 18, lines 47-61. However, Hagen et al. employs particle loaded membranes as oxidant scavengers in accordance with a method that neither discloses nor suggests the applicant's invention. As may have any arguable relevancy in this case, it suggests only the use of sodium thiosulfate in an entirely different method. It does not disclose the use of calcium thiosulfate and otherwise does not disclose or suggest the method of the applicant's invention. Accordingly, the pending claims are believed clearly to be allowable over the Hagen et al. reference.

35 U.S.C. § 102

Finally, the applicant's attorney wants to note that 35 U.S.C. § 102 is misrepresented in the subject Office Action. That statute reads as follows:

"A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country before the invention thereof by the applicant or a patent."

[Emphasis Added]

As the declarations attached hereto establish, the applicant herein clearly invented the invention before anyone else involved in Richey et al. was aware of the invention. So 35 U.S.C. § 102 does not apply as to Richey et al.

It is respectfully submitted that all of the pending claims are clearly allowable over the prior art for the reason heretofore set forth.

In view of the foregoing, this application is believed to be in condition for allowance.

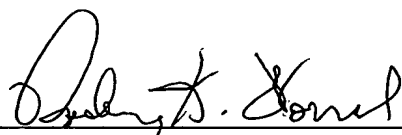
Therefore, prompt Notice of Allowance of the subject application, including claims 3, 4, 7, 8, 9, 10, 11, 13, 14 and 15 is respectfully requested.

The applicant, through his attorney of record, authorizes the Examiner to telephone the attorney collect in the event a telephone discussion could be helpful to the prosecution of this patent application.

Respectfully submitted,

DONALD D. HOLBROOK

BY: WORREL & WORREL

By 
Rodney K. Worrel,
Registration No. 27,475

Attorney of Record for Applicant

WORREL & WORREL
St. Croix Professional Center
2109 W. Bullard Avenue, Suite 121
Fresno, California 93711-1258
Telephone (559) 431-4391
Fax (559) 431.4387

COPY



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. §1.132

Applicant : Donald D. Holbrook
Serial No. : 09/511,830
Filed : February 23, 2000 Art Unit: 1724
For : METHOD FOR TREATING A WORK MATERIAL
Examiner : Betsy M. Hoey

Honorable Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Fresno, California

Sir:

I, Donald D. Holbrook, declare that:

- 1) I reside at 653 Pintail Circle, Fresno, California 93720.
- 2) I am the sole inventor of the above-identified invention of the above-identified patent application now pending before the United States Patent and Trademark Office.
- 3) I am currently employed by Ag Formulators, Inc., having a business address of 5427 E. Central Ave., Fresno, California 93725, to which I have assigned all of my rights in the subject invention and patent application as set forth in the Assignment Of Invention dated February 23, 2000 filed with the subject patent application and duly recorded in the United States Patent and Trademark Office.

- 4) I am currently, and was at the time of the invention herein above stated, employed by Ag Formulators, Inc. as the president.
- 5) I have been employed in this same capacity by Ag Formulators, Inc. for approximately 9 years.
- 6) I am a scientist and have a degree of Bachelor of Science in Soil Science from California State Polytechnic University, at San Luis Obispo.
- 7) The intellectual property lawyer for Ag Formulators, Inc. is Rodney K. Worrel, Registration No. 27,475 before the United States Patent and Trademark Office.
- 8) The intellectual property lawyer for Ag Formulators, Inc., the assignee of the rights herein, has brought to my attention the Office Action of October 22, 2001. With respect to the article cited in the Office Action identified as "Richey et al." and entitled "Improved Ozone Quenching With Calcium Thiosulfate," it is my understanding that the subject Office Action rejects certain of the pending claims of the subject patent application under either 35 USC § 102 and/or 35 USC § 103. It is recognized that all of the claims were not rejected and, in fact claims 7, 8 & 9 appear to be

allowable as a result of the subject Office Action.

- 9) It is clear to me that the "Richey et al." reference is not prior art relative to the subject patent application and the invention thereof.
- 10) The Examiner in the subject Office Action stated, in response to the Amendment of July 26, 2001, that notwithstanding the fact that the "Richey et al." article could not be prior art to the subject patent application for the reasons stated therein, that the "Richey et al." reference could be prior art because of what was stated therein.
- 11) The quotation in the "Richey et al." reference to which the Examiner refers in this regard is "However, the Richey et al. paper states that calcium thiosulfate was used as an ozone-quenching agent at a water treatment plant in February of 1999."
- 12) First, the article of the "Richey et al." reference was not published until long after any date having relevance in this case.

- 13) Second, the article of the "Richey et al." reference refers only to a test operation.
- 14) Third, the subject patent application was filed on February 23, 2000, which is earlier than one year after any date upon which any action took place relative to the subject invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: 1/14/02

By Donald D. Holbrook

Donald D. Holbrook, President
Ag Formulators, Inc.

F:\Newforms\wip\W-3875



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. §1.132

Applicant : Donald D. Holbrook
Serial No. : 09/511,830
Filed : February 23, 2000 **Art Unit:** 1724
For : METHOD FOR TREATING A WORK MATERIAL
Examiner : Betsy M. Hoey

Honorable Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Fresno, California
September 5, 2002

Sir:

I, Donald D. Holbrook, declare that:

- 1) I reside at 653 E. Pintail Circle, Fresno, California 93720.
- 2) I am the sole inventor of the above-identified invention of the above-identified patent application now pending before the United States Patent and Trademark Office.
- 3) I am currently employed by Ag Formulators, Inc., having a business address of 5427 E. Central Ave., Fresno, California 93725, to which I have assigned all of my rights in the subject invention and patent application as set forth in the Assignment Of Invention dated February 23, 2000 filed with the subject patent application and duly recorded in the United States Patent and Trademark Office.

- 4) I am currently, and was at the time of the invention herein above stated, employed by Ag Formulators, Inc. as the President.
- 5) I have been employed in this same capacity by Ag Formulators, Inc. for more than ten (10) years.
- 6) I am a scientist and have a degree of Bachelor of Science in Soil Science from California State Polytechnic University, at San Luis Obispo.
- 7) The intellectual property lawyer for Ag Formulators, Inc. is Rodney K. Worrel, Registration No. 27,475 before the United States Patent and Trademark Office.
- 8) I am the declarant of the "DECLARATION UNDER 37 C.F.R. § 1.132" of "Exhibit A" filed in this case in support of the Amendment of February 1, 2002 which, in turn, was in response to the Office Action of October 22, 2001.
- 9) The intellectual property lawyer for Ag Formulators, Inc., the assignee of the rights herein, has brought to my attention that in the most recent Office Action the Examiner has held that the Declaration of Exhibit A "is insufficient to overcome the rejection of claims 1-4, 6-11 and 13-15 based upon Richey et al. as set forth in the last Office Action because: no evidence was submitted to support the

allegation that the subject patent application was filed earlier than one year after any action took place relative to the subject invention.” With respect to this article identified as “Richey et al.”, it is my understanding that the most recent Office Action now rejects all of the pending claims of the subject patent application under either 35 USC § 102 or 35 USC § 103 on the basis of the “Richey et al.” reference.

- 10) It is clear to me that the “Richey et al.” reference is not prior art relative to the subject patent application and the invention thereof for the reasons set forth herein and as supported by the exhibits attached hereto and made a part hereof.
- 11) The article of the “Richey et al.” reference was not published until long after any date having relevance in this case, that is it was presented at the International Ozone Conference – Pan American Group in Orlando, Florida on October 3, 2000. This fact is indicated near the bottom of the last page of the “Richey et al.” reference. The subject patent application was filed well before that date on February 23, 2000, as is of record in this case.

- 12) Attached hereto and made a part hereof as "Exhibit 1" is a copy of Invoice Number 003181 dated January 22, 1999. The description on the invoice is "4" 55 gallon drums of "CAPTOR", which is a trademark of Ag Formulators, Inc. used on calcium thiosulfate. The 4 drums were shipped to Incline Village to test the invention of the subject patent application at no charge, as indicated on the invoice: "NO CHARGE PER BRUCE." The entry "SOLD TO" on the invoice is only so stated because this is a standard form used internally by Ag Formulators, Inc. As the invoice of Exhibit 1 indicates, there was no charge for the shipment as indicated by the multiple entries in the "Amount" column of ".00" and the Invoice Total of "\$.00." The test was conducted by Incline Village after receiving the shipment of Exhibit 1, but probably not for some period of time thereafter because of several factors. These factors include that Incline Village would first test the calcium thiosulfate received in the shipment as to quality and efficacy and consult with the engineering company which designed the plant to see if there were any unknown risks in conducting a test using calcium thiosulfate as a reagent.

- 13) The shipment of Exhibit 1 hereto was entirely for test purposes as evidenced by the fact that there was no charge for the shipment.
- 14) The first test on the subject invention was not conducted until February, 1999 using the calcium thiosulfate of the invoice of Exhibit 1 to this declaration.
- 15) Attached hereto and made a part hereof as "Exhibit 2" is Invoice No. 003418 dated March 1, 1999 which was the first sale of calcium thiosulfate to Incline Village. This was less than one year before filing of the subject patent application. As the invoice of Exhibit 2 hereto indicates, 220 gallons of "CAPTOR" were sold at a price of "\$572.00", as indicated in the "Amount" column.
- 16) We did not know whether this test would work because we had never tested the invention other than in laboratory tests in very small quantities. The invention had never been tested in a plant of any type; the Incline Village plant was a small plant about four years old. The variables which could affect the test in such a plant include at least the following, all of which were unknown, both as to content as well as to their influence, if any, on the invention: the mineral and other content of the water being treated; the concentration

of the ozone in the water being treated; the temperature of the water being treated; the specific construction of the plant in which the water was treated having direct contact therewith; the length of time of contact with the ozone; the physical length, or distance, through the plant of contact with the water, ozone and calcium thiosulfate to be used; whether or not odors would be produced in the water resulting from the test. These factors were particularly important because the water treated by the plant in normal operation is used for drinking water.

- 17) The test itself may well have been conducted less than one year before filing of the subject patent application because the plant of the test had been using sodium bisulfite to quench ozone. Before you would conduct the test, you would first need to clean out the sodium bisulfite because you would never want to mix sodium bisulfite and calcium thiosulfate. I estimate that such cleaning of the sodium bisulfite from the plant would take about three to ten days. You would not want to mix these two reagents because you could not predict how they would react with each other.
- 18) The test was conducted at Incline Village or, more specifically, the Burnt Cedar Water Disinfection Plant at

Incline Village, by personnel of the plant and with the assistance of Ag Formulators, Inc. "Best Sulfur Products", which appears above the Abstract on the first page of the "Richey et al." reference, is a tradename used by Ag Formulators, Inc. of the instant patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: 09/05/02

By Donald D. Holbrook

Donald D. Holbrook, President
Ag Formulators, Inc.



Best Sulfur Products

A Division of Ag Formulators, Inc.

5427 East Central Ave. • Fresno, CA 93725
Phone (559) 485-0114 • FAX (559) 264-1715

REFER TO OUR
NUMBER

DATE SHIPPED
11/22/99

VIA OR NAME OF CARRIER

Prepaid Unions

Collect

ACCOUNT NO: INCLINVI

003181

NVOICE DATE 01/22/99 CUSTOMER P.O.#: 3181
CDEA PERMIT #:

S/O # NA

OLD TO: INCLINE VILLAGE GENERAL IMPROV
DON RICHEY, SR. SUPERINTENDENT
893 SOUTHWOOD BOULEVARD
INCLINE VILLAGE NV 89451

SHIP TO: INCLINE VILLAGE GENERAL IMPROV
DON RICHEY, SR. SUPERINTENDENT
893 SOUTHWOOD BOULEVARD
INCLINE VILLAGE NV
89451

058

NÀ

[illegible]

TERMS: NET 30 DAYS

INVOICE TOTAL

\$.00

THIS IS TO CERTIFY THAT THE ABOVE NAMED MATERIALS ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED AND LABELED, AND ARE IN PROPER CONDITION FOR TRANSPORTATION ACCORDING TO THE APPLICABLE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION.

8 FORMULATORS WARRANTS THAT THE CHEMICAL COMPOSITION OF THE PRODUCTS
STED ABOVE CONFORMS TO THE CHEMICAL DESCRIPTION LISTED ON THE LABEL
FIXED TO THE PRODUCT. PURCHASER AGREES, THAT IN THE EVENT OF DAMAGES
RISING FROM THE USE OF ANY PRODUCT LISTED ABOVE, TO ACCEPT A REPLACEMENT
F THE PRODUCT OR A REFUND OF THE PURCHASE PRICE OF THE PRODUCTS

AT PURCHASERS OPTION, AS FULL DISCHARGE OF AG FORMULATOR'S LIABILITY. NO ONE IS AUTHORIZED TO MAKE ANY OTHER WARRANTY OR OFFER ANY OTHER DIRECTIONS CONCERNING THESE PRODUCTS. AG FORMULATORS SHALL NOT BE LIABLE IN ANY EVENT FOR PURCHASER'S LOSS OF PROFITS OR OTHER CONSEQUENTIAL DAMAGE.

SEE REVERSE

The driver has secured and inspected the load and is satisfied that the material is adequately restrained against movement under normal vehicle operation.

1000 result for:

Ag Formulators, Inc.
5427 E. Central Ave.
Fresno, CA 93725

Liquidated damages by way of a finance charge of 2% per month annual percentage rate of 24% will be made on overdue accounts. This is not an agreement of AG FORMULATORS to give further time to pay in exchange for the finance charge. In the event suit is filed against purchaser for collection of this account, purchaser agrees to pay reasonable attorney's fees, court costs and finance charges.

EXHIBIT 1

1

AG FORMULATORS

inc.



Best Salt Products
A Division of Ag Formulators, Inc.

5427 East Central Ave. • Fresno, CA 93725
Phone (559) 485-0114 • FAX (559) 264-1715

REFER TO OUR
NUMBER

DATE SHIPPED 3/6/99	VIA OR NAME OF CARRIER	Prepaid Unless Checked Collect	Collect	ACCOUNT NO: INCLINVI	003418
------------------------	------------------------	-----------------------------------	---------	----------------------	--------

INVOICE DATE 03/01/99 CUSTOMER P.O. #: 3418
CDFA PERMIT #:

S/O # NA

OLD TO: INCLINE VILLAGE GENERAL IMPROV
DON RICHEY, SR. SUPERINTENDENT
893 SOUTHWOOD BOULEVARD
INCLINE VILLAGE NV 89451

SHIP TO: INCLINE VILLAGE GENERAL IMPROV
DON RICHEY, SR. SUPERINTENDENT
893 SOUTHWOOD BOULEVARD
INCLINE VILLAGE NV
89451

058

NA

SIZE	QTY	*** DESCRIPTION ***	PRODUCT CODE	PRICE/UN	AMOUNT
200C	1.000	CAPTOR 2206 NSF STD 60	BSP6480230	572.000	572.00
1A	2.000	VALVE TOTE SHORT 2"	BSP6320001	39.500	79.00
INVOICE AMOUNT					651.00
SALES TAX AMOUNT					.00
"For Chemical Emergency Spill, Leak, Fire, Exposure or Accident Call CHEMTREC Day or Night 800-424-9300"					

TERMS: NET 30 DAYS

INVOICE TOTAL

\$651.00

THIS IS TO CERTIFY THAT THE ABOVE NAMED MATERIALS ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED AND LABELED, AND ARE IN PROPER
CONDITION FOR TRANSPORTATION ACCORDING TO THE APPLICABLE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION.

AG FORMULATORS WARRANTS THAT THE CHEMICAL COMPOSITION OF THE PRODUCTS
LISTED ABOVE CONFORMS TO THE CHEMICAL DESCRIPTION LISTED ON THE LABEL
AFFIXED TO THE PRODUCT. PURCHASER AGREES, THAT IN THE EVENT OF DAMAGES
ARISING FROM THE USE OF ANY PRODUCT LISTED ABOVE, TO ACCEPT A REPLACEMENT
OF THE PRODUCT OR A REFUND OF THE PURCHASE PRICE OF THE PRODUCTS

AT PURCHASER'S OPTION, AS FULL DISCHARGE OF AG FORMULATOR'S LIABILITY, NO ONE
IS AUTHORIZED TO MAKE ANY OTHER WARRANTY OR OFFER ANY OTHER DIRECTIONS
CONCERNING THESE PRODUCTS. AG FORMULATORS SHALL NOT BE LIABLE IN ANY
EVENT FOR PURCHASER'S LOSS OF PROFITS OR OTHER CONSEQUENTIAL DAMAGE.

SEE REVERSE

The driver has secured and inspected the load and is satisfied that
the material is adequately restrained against movement under
normal vehicle operation.

See remittance to:

Ag Formulators, Inc.
5427 E. Central Ave.
Fresno, CA 93725

Liquidated damages by way of a finance charge of 2% per month annual percentage rate of 24% will
be made on overdue accounts. This is not an agreement of AG FORMULATORS to give further time to
pay in exchange for the finance charge. In the event suit is filed against purchaser for collection of this
account, purchaser agrees to pay reasonable attorney's fees, court costs and finance charges.

EXHIBIT 2

1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
DECLARATION UNDER 37 C.F.R. §1.132 OF DONALD N. RICHEY

Applicant : Donald D. Holbrook
Serial No. : 09/511,830
Filed : February 23, 2000 **Art Unit:** 1724
For : METHOD FOR TREATING A WORK MATERIAL
Examiner : Betsy M. Hoey

Honorable Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Incline Village, Nevada

Sept. 11, 2003

Sir:

DK.
DK. Sr.

I, ~~Donald~~ N. Richey, declare that:

- 1) I reside at 935 Dorsey Drive, Incline Village, Nevada 89450.
- 2) I am named as co-author in the article cited as a reference relating to the prosecution on the above-identified patent application; that is the "Richey et al." reference bearing the title "Improved Ozone Quenching With Calcium Thiosulfate" and presented for the first time at a conference on October 3, 2000.

- 3) I am now retired, but at the time which is the subject of the period covered by this Declaration, I was Superintendent of the Burnt Cedar Water Disinfection Plant at Incline Village, Nevada at which this test of the applicant's invention was conducted in late February, 1999.
- 4) I have read, in detail, the Declarations Under 37 CFR § 1.132 of Donald D. Holbrook of Exhibits A and B which, I have been told, have been filed in this case. I agree with every factual detail stated therein as well as the statements therein of the legal issues involved. There is, in other words, no way the "Richey et al." reference could be prior art to the subject above-identified patent application.
- 5) I have been advised that the intellectual property lawyer for Ag Formulators, Inc. is Rodney K. Worrel, Registration No. 27,475 before the United States Patent and Trademark Office.
- 6) As above noted, I am listed as one of the authors of the "Richey et al." reference and am thoroughly familiar with the facts involved and the legal consequences, if any, thereof.
- 7) The intellectual property lawyer for Ag Formulators, Inc., (operating in part under the tradename "Best Sulfur

Products”) the assignee of the rights herein, has brought to my attention that in the most recent Office Action, dated March 21, 2003, the Examiner has held that the Declaration of Exhibit B of the Amendment thereto “is insufficient to overcome the rejection of claims 1-4, 6-11 and 13-15 based upon “Richey et al.” as set forth in the last Office Action because: no evidence was submitted to support the allegation that the subject patent application was filed earlier than one year after any action took place relative to the subject invention.” With respect to this article identified as “Richey et al.”, it is my understanding that the most recent Office Action now rejects all of the pending claims of the subject patent application under either 35 USC § 102 or 35 USC § 103 on the basis of the “Richey et al.” reference.

- 8) It is clear to me that the “Richey et al.” reference is not prior art relative to the subject patent application and the invention thereof for the reasons set forth herein and as supported by the other exhibits filed in this case.
- 9) The article of the “Richey et al.” reference was not published until long after any date having relevance in the subject case, that is it was presented at the International

Ozone Conference – Pan American Group in Orlando, Florida on October 3, 2000. This fact is indicated near the bottom of the last page of the “Richey et al.” reference. The subject patent application was filed well before that date on February 23, 2000, as, I am advised, is of record in this case and is indicated in the heading to this Exhibit C.

- 10) The shipment to which reference is made in Exhibit 1 to Exhibit B of the Declaration of Donald D. Holbrook was entirely for test purposes as evidenced by this Declaration of Exhibit C as well as the fact that there was no charge for the shipment.
- 11) This first test on the subject invention was not conducted until late February, 1999, or early March, 1999, using the calcium thiosulfate of the invoice of Exhibit 1 to the Declaration of Exhibit B.
- 12) The inventor, Donald D. Holbrook, of the subject invention, did not know whether this test would work because we had never tested the invention other than in laboratory tests in very small quantities. The invention had never, to that date, been tested, other than in a laboratory, in a test of any type; the Incline Village plant was a small plant about four years old. The variables which could affect the test in such a

plant include at least the following, all of which were unknown, both as to content as well as to their influence, if any, on the invention: the mineral and other content of the water being treated; the concentration of the ozone in the water being treated; the temperature of the water being treated; the specific construction of the plant in which the water was treated having direct contact therewith; the length of time of contact with the ozone; the physical length, or distance, through the plant of contact with the water, ozone and calcium thiosulfate to be used; whether or not odors would be produced in the water resulting from the test. These factors were particularly important because the water treated by the plant in normal operation is used for drinking water.

- 13) The test itself was clearly conducted less than one year before filing of the subject patent application because the plant of the test had been using sodium bisulfite to attempt to quench ozone prior to that testing. Before the test was conducted, it would first be required to clean out the sodium bisulfite because you would never want to mix sodium bisulfite and calcium thiosulfate in a test to determine reliably what compounds, or combinations of compounds,

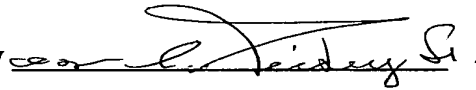
were responsible for the results achieved. I estimate that such cleaning of the sodium bisulfite from the plant would take about three to ten days. You would not want to mix these two reagents because you could not predict how they would react with each other.

- 14) The test was conducted at Incline Village, Nevada or, more specifically, the Burnt Cedar Water Disinfection Plant at Incline Village, Nevada by personnel of the plant and with the assistance of Ag Formulators, Inc. "Best Sulfur Products", which appears above the Abstract on the first page of the "Richey et al." reference is a tradename used by Ag Formulators, Inc. of the instant patent application.
- 15) Exhibit 2 to the same Declaration of Donald D. Holbrook of Exhibit B is Invoice No. 003418 dated March 1, 1999 which was the first sale of calcium thiosulfate to Incline Village. This was less than one year before filing of the subject patent application. As the invoice of Exhibit 2 thereto indicates, 220 gallons of "CAPTOR" were sold at a price of "\$572.00", as indicated in the "Amount" column.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: Sept 11, 2003

By



Donald N. Richey Sr. - *DR*
DF



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. §1.132 OF EDWARD J. POLLOCK

Applicant : Donald D. Holbrook
Serial No. : 09/511,830
Filed : February 23, 2000 Art Unit: 1724
For : METHOD FOR TREATING A WORK MATERIAL
Examiner : Betsy M. Hoey

Honorable Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Incline Village, Nevada

Sept 11, 2003

Sir:

I, Edward J. Pollock, declare that:

- 1) I reside at 839 Donna Drive, Incline Village, Nevada 89451.
- 2) I am named as co-author in the article cited as a reference relating to the prosecution on the above-identified patent application; that is the "Richey et al." reference bearing the title "Improved Ozone Quenching With Calcium Thiosulfate" and presented for the first time at a conference on October 3, 2000.

- 3) At the time of the period covered by this Declaration, I was a waste water chemist at the Burnt Cedar Water Disinfection Plant at Incline Village, Nevada. I was the person who conducted the test of the applicant's invention at the site in late February, 1999 for the purposes described herein. I was impressed with the results of the tests and was thereafter responsible for seeing that we ordered more calcium thiosulfate, after the test, for purposes of continuing to test its viability of the invention for the purposes we wished to accomplish.
- 4) I have read, in detail, the Declarations Under 37 CFR § 1.132 of Donald D. Holbrook of Exhibits A and B which, I have been told, have been filed in this case. I agree with every factual detail stated therein as well as the statements therein of the legal issues involved. There is, in otherwords, no way the "Richey et al." reference could be prior art to the subject above-identified patent application.
- 5) I have been advised that the intellectual property lawyer for Ag Formulators, Inc. is Rodney K. Worrel, Registration No. 27,475 before the United States Patent and Trademark Office.
- 6) As above noted, I am listed as one of the authors of the

“Richey et al.” reference and am thoroughly familiar with the facts involved and the legal consequences, if any, thereof.

- 7) The intellectual property lawyer for Ag Formulators, Inc., (operating in part under the tradename “Best Sulfur Products”) the assignee of the rights herein, has brought to my attention that in the most recent Office Action, dated March 21, 2003, the Examiner has held that the Declaration of Exhibit B of the Amendment thereto “is insufficient to overcome the rejection of claims 1-4, 6-11 and 13-15 based upon “Richey et al.” as set forth in the last Office Action because: no evidence was submitted to support the allegation that the subject patent application was filed earlier than one year after any action took place relative to the subject invention.” With respect to this article identified as “Richey et al.”, it is my understanding that the most recent Office Action now rejects all of the pending claims of the subject patent application under either 35 USC § 102 or 35 USC § 103 on the basis of the “Richey et al.” reference.
- 8) It is clear to me that the “Richey et al.” reference is not prior art relative to the subject patent application and the

invention thereof for the reasons set forth herein and as supported by the other exhibits filed in this case.

- 9) The article of the “Richey et al.” reference was not published until long after any date having relevance in the subject case, that is it was presented at the International Ozone Conference – Pan American Group in Orlando, Florida on October 3, 2000. This fact is indicated near the bottom of the last page of the “Richey et al.” reference. The subject patent application was filed well before that date on February 23, 2000, as, I am advised, is of record in this case and is indicated in the heading to this Exhibit D.
- 10) The shipment to which reference is made in Exhibit 1 to Exhibit B of the Declaration of Donald D. Holbrook was entirely for test purposes as evidenced by this Declaration of Exhibit C, the other Exhibits in this case, as well as the fact that there was no charge for the shipment.
- 11) This first test on the subject invention was not conducted until late February, 1999, or early March, 1999, using the calcium thiosulfate of the invoice of Exhibit 1 to the Declaration of Exhibit B.
- 12) The inventor, Donald D. Holbrook, of the subject invention, did not know whether this test would work because we had

never tested the invention other than in laboratory tests in very small quantities. The invention had never, to that date, been tested, other than in a laboratory, in a test of any type; the Incline Village plant was a small plant about four years old. The variables which could affect the test in such a plant include at least the following, all of which were unknown, both as to content as well as to their influence, if any, on the invention: the mineral and other content of the water being treated; the concentration of the ozone in the water being treated; the temperature of the water being treated; the specific construction of the plant in which the water was treated having direct contact therewith; the length of time of contact with the ozone; the physical length, or distance, through the plant of contact with the water, ozone and calcium thiosulfate to be used; whether or not odors would be produced in the water resulting from the test. These factors were particularly important because the water treated by the plant in normal operation is used for drinking water.

- 13) The test itself was clearly conducted less than one year before filing of the subject patent application because the plant of the test had been using sodium bisulfite to attempt

to quench ozone prior to that testing. Before the test was conducted, it would first be required to clean out the sodium bisulfite because you would never want to mix sodium bisulfite and calcium thiosulfate in a test to determine reliably what compounds, or combinations of compounds, were responsible for the results achieved. I estimate that such cleaning of the sodium bisulfite from the plant would take about three to ten days. You would not want to mix these two reagents because you could not predict how they would react with each other.

- 14) The test was conducted at Incline Village, Nevada or, more specifically, the Burnt Cedar Water Disinfection Plant at Incline Village, Nevada by personnel of the plant and with the assistance of Ag Formulators, Inc. "Best Sulfur Products", which appears above the Abstract on the first page of the "Richey et al." reference is a tradename used by Ag Formulators, Inc. of the instant patent application.
- 15) Exhibit 2 to the same Declaration of Donald D. Holbrook of Exhibit B is Invoice No. 003418 dated March 1, 1999 which was the first sale of calcium thiosulfate to Incline Village. This was less than one year before filing of the subject patent application. As the invoice of Exhibit 2

thereto indicates, 220 gallons of "CAPTOR" were sold at a price of "\$572.00", as indicated in the "Amount" column.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: Sept. 11, 2003

By Edward J. Pollock

Edward J. Pollock



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. §1.132 OF ROY L. HARDISON

Applicant : Donald D. Holbrook
Serial No. : 09/511,830
Filed : February 23, 2000 **Art Unit:** 1724
For : METHOD FOR TREATING A WORK MATERIAL
Examiner : Betsy M. Hoey

Honorable Commissioner of Patents
and Trademarks
Washington, D. C. 20231

Modesto, California

9-10-03, 2003

Sir:

I, Roy L. Hardison, declare that:

- 1) I reside at 4704 Via Brezza, Modesto, California 95357.
- 2) I am named as co-author in the article cited as a reference relating to the prosecution on the above-identified patent application; that is the "Richey et al." reference bearing the title "Improved Ozone Quenching With Calcium Thiosulfate" and presented for the first time at a conference on October 3, 2000.
- 3) I am now retired, but at the time covered by this Declaration, I was Technical Manager for Agricultural Formulators, Inc., the assignee of the subject invention.
- 4) I have read, in detail, the Declarations Under 37 CFR § 1.132 of Donald D. Holbrook of Exhibits A and B which, I

have been told, have been filed in this case. I agree with every factual detail stated therein as well as the statements therein of the legal issues involved. There is, in otherwords, no way the "Richey et al." reference could be prior art to the subject above-identified patent application.

- 5) I have been advised that the intellectual property lawyer for Ag Formulators, Inc. is Rodney K. Worrel, Registration No. 27,475 before the United States Patent and Trademark Office.
- 6) As above noted, I am listed as one of the authors of the "Richey et al." reference and am thoroughly familiar with the facts involved and the legal consequences, if any, thereof.
- 7) The intellectual property lawyer for Ag Formulators, Inc., (operating in part under the tradename "Best Sulfur Products") the assignee of the rights herein, has brought to my attention that in the most recent Office Action, dated March 21, 2003, the Examiner has held that the Declaration of Exhibit B of the Amendment thereto "is insufficient to overcome the rejection of claims 1-4, 6-11 and 13-15 based upon "Richey et al." as set forth in the last Office Action because: no evidence was submitted to support the

allegation that the subject patent application was filed earlier than one year after any action took place relative to the subject invention.” With respect to this article identified as “Richey et al.”, it is my understanding that the most recent Office Action now rejects all of the pending claims of the subject patent application under either 35 USC § 102 or 35 USC § 103 on the basis of the “Richey et al.” reference.

- 8) It is clear to me that the “Richey et al.” reference is not prior art relative to the subject patent application and the invention thereof for the reasons set forth herein and as supported by the other exhibits filed in this case.
- 9) The article of the “Richey et al.” reference was not published until long after any date having relevance in the subject case, that is it was presented at the International Ozone Conference – Pan American Group in Orlando, Florida on October 3, 2000. This fact is indicated near the bottom of the last page of the “Richey et al.” reference. The subject patent application was filed well before that date on February 23, 2000, as, I am advised, is of record in this case and is indicated in the heading to this Exhibit E.
- 10) The shipment to which reference is made in Exhibit 1 to

Exhibit B of the Declaration of Donald D. Holbrook was entirely for test purposes as evidenced by this Declaration of Exhibit C, the other Exhibits in this case, as well as the fact that there was no charge for the shipment.

- 11) This first test on the subject invention was not conducted until late February, 1999, or early March, 1999, using the calcium thiosulfate of the invoice of Exhibit 1 to the Declaration of Exhibit B.
- 12) The inventor, Donald D. Holbrook, of the subject invention, did not know whether this test would work because we had never tested the invention other than in laboratory tests in very small quantities. The invention had never, to that date, been tested, other than in a laboratory, in a test of any type; the Incline Village plant was a small plant about four years old. The variables which could affect the test in such a plant include at least the following, all of which were unknown, both as to content as well as to their influence, if any, on the invention: the mineral and other content of the water being treated; the concentration of the ozone in the water being treated; the temperature of the water being treated; the specific construction of the plant in which the water was treated having direct contact therewith; the length

of time of contact with the ozone; the physical length, or distance, through the plant of contact with the water, ozone and calcium thiosulfate to be used; whether or not odors would be produced in the water resulting from the test. These factors were particularly important because the water treated by the plant in normal operation is used for drinking water.

- 13) The test itself was clearly conducted less than one year before filing of the subject patent application because the plant of the test had been using sodium bisulfite to attempt to quench ozone prior to that testing. Before the test was conducted, it would first be required to clean out the sodium bisulfite because you would never want to mix sodium bisulfite and calcium thiosulfate in a test to determine reliably what compounds, or combinations of compounds, were responsible for the results achieved. I estimate that such cleaning of the sodium bisulfite from the plant would take about three to ten days. You would not want to mix these two reagents because you could not predict how they would react with each other.
- 14) The test was conducted at Incline Village, Nevada or, more specifically, the Burnt Cedar Water Disinfection Plant at

Incline Village, Nevada by personnel of the plant and with the assistance of Ag Formulators, Inc. “Best Sulfur Products”, which appears above the Abstract on the first page of the “Richey et al.” reference is a tradename used by Ag Formulators, Inc. of the instant patent application.

- 15) Exhibit 2 to the same Declaration of Donald D. Holbrook of Exhibit B is Invoice No. 003418 dated March 1, 1999 which was the first sale of calcium thiosulfate to Incline Village. This was less than one year before filing of the subject patent application. As the invoice of Exhibit 2 thereto indicates, 220 gallons of “CAPTOR” were sold at a price of “\$572.00”, as indicated in the “Amount” column.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATE: 9/10/03

By Roy L. Hardison

Roy L. Hardison

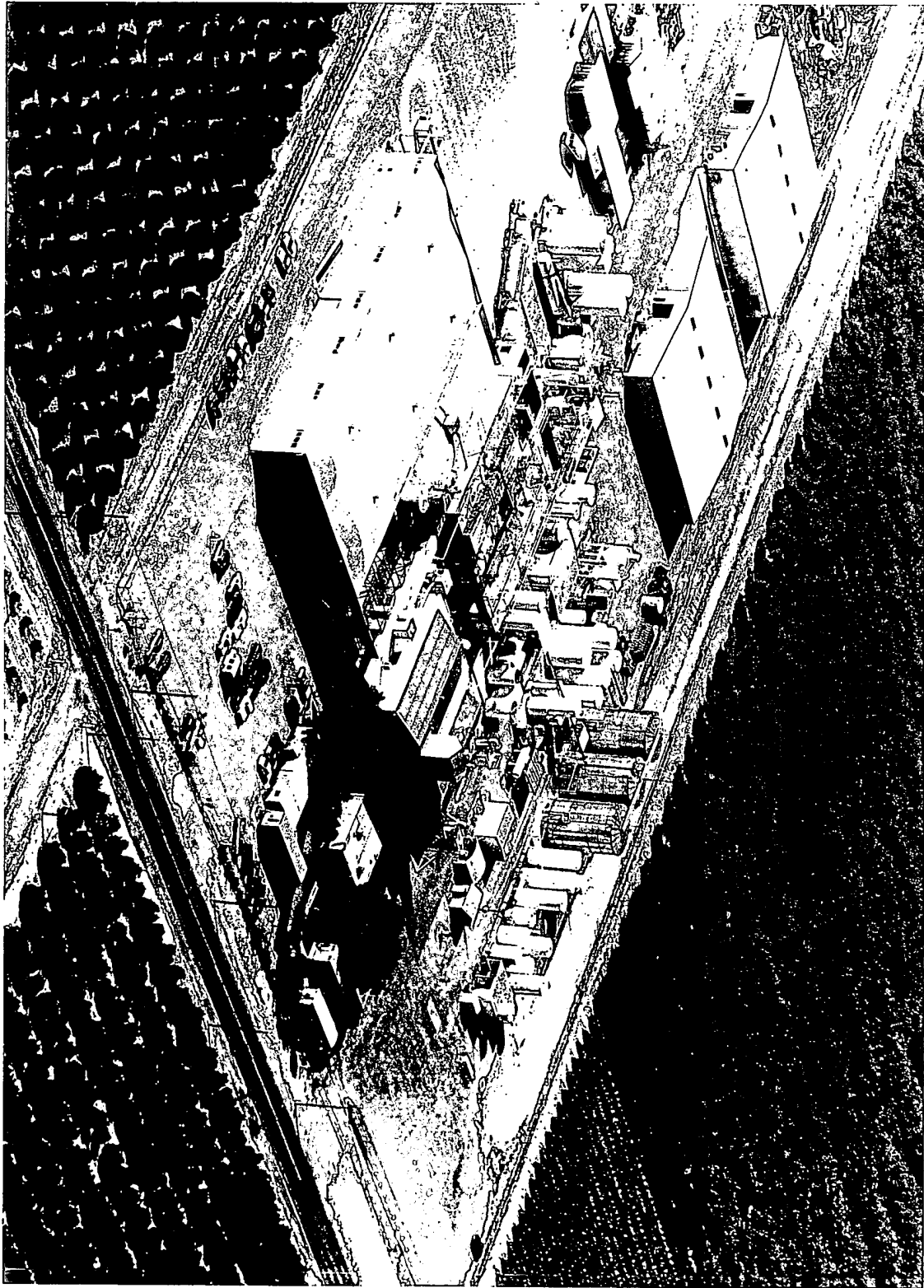


Exhibit F